SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-372

LAW RESEARCH SERVICE, INC.
and ELLIAS C. HOPPENFELD,

Petitioners,

—against—

BLAIR & CO., GRANBERY MARACHE, INCORPORATED,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI ON BEHALF OF RESPONDENT BLAIR & CO., GRANBERY MARACHE, INC.

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Of Counsel:

THOMAS R. ESPOSITO

Dated: November 5, 1971

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Contrary to the assertions made in petitioners' Supplemental Brief, the case of *Atlantic Coast Line Railroad Company* v. *Erie Lackawanna Railroad Company* (No. 71-107), in which this Court granted certiorari on October 26, 1971, does not raise an issue similar to the issue herein.

The *Atlantic Coast Line* case involves the question of contribution among joint tort-feasors under maritime common law. As petitioners' Supplemental Brief acknowledges, this question turns solely on judicial interpretation "in the absence of legislation" (Pet. Supplemental Brief, p. 3).

The present case, however, involves the granting of contribution among joint tort-feasors in an action under the

authority of the federal securities laws. As pointed out in our Brief in Opposition, these laws encompass a scheme of federal legislation which supports the granting of contribution herein (Brief in Opposition, pp. 9-10). The Courts below expressly relied on the provisions of these federal laws in holding that contribution is here mandated under them (Pet. Appx. "B," p. 20).

Unlike *Atlantic Coast Line*, this is not a case of a court establishing the right of contribution in a common law situation without Congressional sanction. Congress has expressly provided for contribution among defendants in actions under the federal securities laws. The difference between the two cases is underscored by the fact that the same majority of the Second Circuit (Judges Moore and Timbers) denied contribution in the *Atlantic Coast Line* case, but granted it in the instant case. See 442 F.2d 694 (2nd Cir. 1971), but cf. 442 F.2d 1346 (2nd Cir. 1971).

CONCLUSION

For the foregoing reasons, as well as those set forth in our Brief in Opposition, the petition for certiorari should be denied in all respects.

Respectfully submitted,

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Of Counsel:

THOMAS R. ESPOSITO

Dated: November 5, 1971

CERTIFICATE OF SERVICE

I, MILTON BLACK, of Mudge Rose Guthrie & Alexander, hereby certify that copies of the foregoing Supplemental Brief in Opposition to Petition for Certiorari on Behalf of Respondent Blair & Co., Granbery Marache Incorporated, have been served on counsel by personal delivery to Gabriel I. Levy, Esq., Counsel for Petitioners, 350 Fifth Avenue, New York, New York 10001, this 5th day of November, 1971.

MILTON BLACK